

ENTERED

November 27, 2024

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Alan Nelson Crofts,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 4:23-cv-04828
	§	
Freedom Mortgage Corporation;	§	
Stanley Middleman, CEO and	§	
Owner; and John Doe, Employee,	§	
	§	
<i>Defendant.</i>	§	

ORDER ON MOTION FOR SUBSTITUTE SERVICE

Plaintiff Alan Nelson Crofts has filed a renewed, verified motion for substitute service on Defendant Stanley Middleman, who is the CEO of Freedom Mortgage Company and the only remaining defendant in this case. *See* Dkt. 41; *see also* Dkt. 24 (dismissing all claims against Freedom Mortgage). Among other things, Crofts’s motion and exhibits detail a process server’s attempts in August and September to serve Middleman at a location that property records confirm to be his home address. *See* Dkt. 41 at 2-3, 20-22, 43.

Federal rules permit service of process under “state law ... in the state where the district court is located”—here, Texas. Fed. R. Civ. P. 4(e)(1). Here, that state is Texas. Texas law, in turn, permits a court to “authorize substituted service only after a plaintiff has unsuccessfully tried to effect

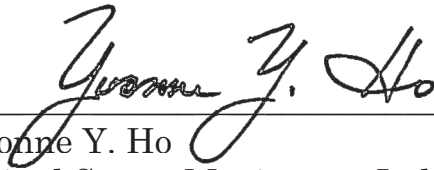
personal service or service by certified mail, return receipt requested, as required by [Tex. R. Civ. P.] 106(a).” *State Farm Fire & Cas. Co. v. Costley*, 868 S.W.2d 298, 298-99 (Tex. 1993). A request for substitute service must be supported by a sworn statement “listing any location where the defendant can probably be found and stating specifically the facts showing that service has been attempted under (a)(1) or (a)(2) at the location named in the statement but has not been successful” Tex. R. Civ. P. 106(b). Provided these requirements are met, the court can permit service either “(1) by leaving a copy of the citation and of the petition with anyone older than sixteen at the location specified in the statement”; or (2) through other means that would “be reasonably effective to give the defendant notice of the suit.” *See id.*

The information regarding Crotts’s attempts to effectuate in-person service on Middleman, standing alone, satisfies the foregoing requirements for substitute service. Crotts’s verified submission properly identifies a location where Middleman can probably be found, namely a home address. *See* Dkt. 41 at 6, 43 (process server’s email identifying home address); 25; *id.* at 13 (identifying business address). As detailed in Crotts’s sworn motion, and supported by the attached exhibits, a process server attempted personal service on Middleman at that address, twice in August 2024 and once in September 2024. *See id.* at 2-3, 20-22. No one answered. *See id.*

Because Crotts has satisfied the prerequisites for substitute service, the only remaining question is how that service should proceed. Crotts requests authorization to leave a copy of the summons and complaint with the receptionist, Margie Mosley, at the address of the company of which Middleman serves as CEO. *See id.* at 6; *see also id.* at 25 (article regarding Middleman's role at Freedom Mortgage); *id.* at 41 (website with Freedom Mortgage's business address). This form of substitute service is appropriate and would be reasonably effective to provide Middleman with notice of the suit. *See* Tex. R. Civ. P. 106(b)(1).

Accordingly, it is **ORDERED** that Plaintiff Alan Nelson Crotts's renewed motion for substitute service (Dkt. 41) is **GRANTED**. It is further **ORDERED** that Crotts may serve Defendant Stanley Middleman by having a process server deliver a copy of the summons and complaint to Margie Mosley at the business address of Freedom Mortgage Corporation (951 Yamato Road, Suit 175, Boca Raton, FL 33431). The deadline for effectuating such service and filing a valid return of service (i.e., an affidavit of the process server) is **December 18, 2024**. No further extensions will be entertained.

Signed on November 27, 2024, at Houston, Texas.



Yvonne Y. Ho
United States Magistrate Judge